DEMAND No. 14—ADMINISTRATION OF JUSTICE.

27. ADMINISTRATION OF JUSTICE.

Mr. SPEAKER.—Motion moved:

"That a sum not exceeding Rs. 27,95,900 be granted to the Government to defray the charges which will come in course of payment during the year ending 31st day of March 1955 in respect of 'Administration of Justice'."

I have fixed time for demands as follows:—

Demand No. 14	... Till 11 O'Clock
Demand No. 15	... 11 to 11-30
Demand No. 16	... 11-30 to 12-30

We will now take up cut motions. The first cut motion stands in the name of Sri Anantaraman. There are three more cut motions of a similar nature, namely, Nos. 12, 17 and 18. All of them may be taken up together.

Separation of Executive from Judiciary.

Sri R. ANANTARAMAN (Chamarajpet).—Sir, I beg to move:

"That the demand under the head '27. Administration of Justice' for Rs. 27,95,900 be reduced by Rs. 100 (to raise a discussion that immediate steps are not taken by the Government to separate the Executive from the Judiciary)."

Before I say a few words on this cut motion, I would just like to read article 50 of the Constitution:

"50. The State shall take steps to separate the Judiciary from the Executive in the public services of the State."

Reasons for the separation of the Judiciary from the Executive are obvious. They are well known. One reason is to avoid the influence of the executive on the judiciary and the other is to avoid delay. As regards the first, everybody is afraid that the Executive from the Ministers down to Deputy Commissioner can easily influence the judiciary and thereby interfere with orders passed in a particular case before them. So it is better that the executive is separated from the judiciary. I am not ready to give any instance under this category.

As regards the second reason, namely, avoiding delay, it is well known that there will be a lot of delay in the disposal of cases before the judiciary and also before the executive. I would like to give an instance also to show that there has been a lot of delay in one or two cases last year.

Mr. SPEAKER.—I think no instances are necessary because there are series of cut motions. I think you can.

Sri R. ANANTARAMAN.—I will be very brief. Just to show that there is influence.

Mr. SPEAKER.—Even if a single case is to be pointed out that takes about ten minutes. Then you will have no more time.

Sri R. ANANTARAMAN.—I will be very brief. In a kidnapping case last year bail application was moved before a Magistrate and the Magistrate refused to grant bail. Afterwards the Dasara holidays came and during the holidays the District Magistrate will have concurrent jurisdiction with that of the Sessions Judge who will be on leave. The bail application was filed before the District Magistrate and because of the heavy work during that period the application was not disposed of. Even afterwards, to take the application from the court of the District Magistrate to that of the Sessions Judge, it took about 8 to 10 days. So there was a lot of delay. It is better the District Magistrate is not given powers to dispose of cases in the holidays. So there will usually be many such delayse

During the present session questions on the same subject were put by me and also by Sri H. C. Linga Reddy on 17-3-54. To Q. No. 781 put by Sri H. C. Linga Reddy regarding the steps taken by the Government to separate the judiciary from the executive the answer given is like this:

"A draft scheme for the separation of the judiciary from the

(SRI R. ANANTARAMAN.)

executive in the State was prepared by the Law Secretariat. The High Court of Mysore, the Advocate-General in Mysore, the District Magistrates of Districts, the Law Associations at District Headquarters and the State Judicial Officers' Association, who had been consulted in the matter, have furnished their views. The matter is under the consideration of Government."

A similar answer was given to my question also. This does not specifically show when the Government are going to take up this question. It may be next year or a year afterwards.

In the neighbouring State of Madras steps have already been taken. This year also they have introduced the separation scheme in one or two districts. I do not know why our Government are very slow in implementing the scheme. In fact a question was put to the Hon'ble Minister whether there will be any financial implications. He said that there will be. Let him say how much money is required to implement the scheme. I do not know why they have not come forward with an answer for it when a question was put to him in regard to that.

To another question put by Sri Linga Reddy regarding the position in Bellary District, the answer given was like this :—

"With the integration of Bellary District in the Mysore State, the Deputy Commissioner, Bellary District, has been appointed the District Magistrate of the said District...The other criminal courts functioning in Bellary District as on 1st October 1953 for the disposal of criminal cases have been continued. At the time of implementation of the scheme of separation of judiciary from the executive in the State, the scheme will be introduced in Bellary District."

Was not the judiciary separated from the executive in that district before 1st October 1953? But after the integration of the district with Mysore, you are going backwards. In fairness you should not have gone back. You should not have done like that. You should at least have experimented in that district.

I do not want to say much excepting to urge upon Government the need to take up that scheme at least in a few districts. It may not be possible according to them to spend a large sum of money over this. But let us try to take it up in a few districts and if it will be successful—I am told it is successful in Madras State and I do not know why it will not be successful here,—I request the Minister to implement the scheme as early as possible. In fact in Lawyers' Conferences, even in the Bar Association, they were in favour of the separation of powers. I do not know why the Government of Mysore should hesitate to implement the scheme. With these few words I move the cut motion.

MR. SPEAKER.—Cut motion moved:

"That the demand be reduced by Rs 100."

Sri Kempa Raj and Sri H. C. Linga Reddy who have sent similar cut motions may speak on this cut motion itself if they are at all desirous of doing so.

SRI B. T. KEMPA RAJ (Bangalore South—Scheduled Castes).—I support the cut motion moved by our friend Sri Anantaraman. It is a well-known fact that in every democratic country there is separate judiciary as well as executive in addition to separate legislature. It is not a new thing in democracy. Moreover if the Government do not make up their mind to give adequate consideration for the separation of the judiciary from the executive it is really a very sorrowful state of affairs. As our friend Sri Anantaraman has already said, Government should have taken steps by this time to see that at least some move was made towards that direction. For instance the Deputy Commissioner decides some cases and he will be the same officer to execute

the order passed in the same case. He has sat as a judge already and again he executes the same as an executive officer. In such a case, what will be the position of the person who seeks redress? This power was given to the Deputy Commissioner and the District Magistrate during the time of the Britishers, because they had a lot of fear on account of the administration they were carrying on here. Now we are independent and I think the Government need not have any fear in their minds to separate the power that vests in the executive officers and pass on those powers to the hands of the judiciary. With these observations I request the Government to see that they go ahead with the scheme.

Sri H. C. LINGA REDDY (Malur).—I wholeheartedly support the cut motion. I do not know why the question of separation of powers has been pending for a long time in our State. Even our present Law Minister, when he was a member in the previous Assembly, had moved a similar cut motion not only to separate the executive from the judiciary but also to separate the legislature from the executive. But now when he himself has assumed office and holds the Law portfolio I do not know the special reasons why there should be delay. I remember the previous Law Minister Sri K. T. Bhashyam, the present Chairman of the Legislative Council, had even prepared a scheme of separation of powers. I also remember the other day our Law Minister was giving a reply that the scheme has been prepared and that he has called for the view of the Advocate-General and the High Court and the Law Associations at District Headquarters and that all of them have furnished their views on the matter but still definite and concrete steps have not been taken in this direction. I also remember that above five years ago the High Court set up a committee under the Presidentship of Justice T. N. Mallappa and it had prepared a scheme and sent it to Government. But still no concrete steps are taken. It is well-known that the separation of powers is based on the principle that one cannot be both the prosecutor and the judge. The other day our Law Minister was saying that a large amount of money would be required to implement the scheme. I do not believe that is the real reason, because in our State many of the Munsiffs can be made Munsiff-Magistrates. I know many Munsiffs have no work at all. For example in Kolar and in the Kolar Gold Fields, they have no work after 12 of the clock. They can be tagged on with Second Magistrate's work and in that way expenditure can be reduced. After all the steps which have got to be taken are very simple. The present First Class Magistrates can be made District Magistrates and the small criminal work that the District Magistrates have got to attend to at present can be taken away from them and could be given to the District

10 A.M.

Magistrates. And so far as the criminal work under section 107 of the Code of Criminal Procedure is concerned, that work can be given to present Deputy Commissioners. By limiting the criminal work to that extent only to the Deputy Commissioners at present, the remaining work can easily be assigned to the Special First Class Magistrates after appointing them as District Magistrates and this can be very easily implemented. I do not know what special reasons there are in the way of the Government to implement the scheme.

We have been copying a number of things from Bellary regarding taxation measures. Should we not also copy the good and beneficial things obtaining there? On the other hand, if there is such a thing in Bellary, we have tried to abolish it there and we appoint the Deputy Commissioner as the District Magistrate there and we abolish the scheme of separation of powers which the Madras Government had introduced. Therefore, Sir, I strongly urge that it is high time that this scheme should be introduced in the State of Mysore and some positive steps should be taken in that direction.

Sri K. PATTABHI RAMAN (Kolar).—Mr. Speaker, Sir, I want to

(SRI K. PATTABHIRAMAN.)

add one or two words. I wholeheartedly agree with what has been suggested on the floor of the House by the two previous speakers. I want to add one concrete suggestion for the consideration of the Hon'ble the Law Minister. No doubt a comprehensive scheme has been envisaged and a solution to this problem might be forthcoming and that very soon. Apart from that, I want to make this suggestion. Now you have certain courts in the State where you are posting persons from the revenue cadre to work as magistrates. To add to that, you are giving them certain special and additional powers and additional executive responsibility. I am going to illustrate this from what is obtaining in Kolar Gold Fields. The Special Magistrate there who exercises the power of a Third Class, Second and First Class Magistrate has also certain special powers : in addition to that he is also Vice-President of the Sanitary Board and he has got various other commitments. I have nothing to say against any one personally. I go one step further and say that some persons who have worked there, all of them have done wonderfully well. I have always derived a great amount of satisfaction that although these persons are drawn from the revenue cadre, they have still discharged their functions in a manner such as to bring credit to themselves. But nevertheless, I feel it will not be correct because this idea of putting magistrates to work in conjunction with various other executive responsibilities, in addition to violating the principle involved therein, has had certain practical difficulties. I should therefore think it should be very easy for the Government to consider the possibility of transferring persons from the judicial cadre to fill such posts and that will be a very good step, the first step in this direction. In the first place such courts may not be more than a dozen where these revenue officers are working as magistrates. In Kolar District itself you have the example of K.G.F. and Chikballapur and very possibly throughout the whole State there may not be more than a dozen such instances. And so I ask the Government that as a first step in the implementation of this principle it should not be difficult for them to stop posting the revenue officers to be in charge of Magistrates' Courts.

There is also one additional advantage in this. For instance, take the case of K.G.F. My friend Sri Linga Reddy has already referred to it. There is a Munsiff's Court at K.G.F. which does not have enough work and recently the work relating to some taluks have been tacked on to its jurisdiction from Kolar but still the work in the Munsiff's Court at K.G.F. remains rather at a minimum. It should not be difficult to invest him with magisterial powers and make him a full magistrate. He is even now enjoying certain powers of magistrate and disposing of some cases. To make this Court to deal with the criminal work also and make it a Munsiff-Magistrate's Court there will be a great advantage. Only recently we had one difficulty. The incumbent in the Magistrate's Court at K.G.F. went on leave. For about two months or three months no substitute was posted to that place with the result the work has mounted up. This in one of the difficulties of transferring revenue officers to judicial offices and to that extent the exigencies that will naturally arise in the case of Magistrate's Court will be subordinate to other considerations. Therefore I am making this most important and concrete suggestion and as a first step in this direction the Government may order immediately that for magistrates' courts only persons drawn from judicial cadre shall be posted and discontinue posting officers drawn from revenue cadre. It will not be a question of financial difficulty. It is only a matter of principle and adjustment and I therefore think that there ought to be no impediment in the implementation of this principle.

With this suggestion, I generally support the cut motion that is made out in this House by Sri R. Anantaraman and very ably supported by Sri Linga Reddy.

*SRI A. G. RAMACHANDRA RAO (Minister for Law and Education).— Sir, on this point there is absolutely no

* Asterisk indicates that the speech has not been revised by the Member concerned.

difference of opinion between Government and the view-points expressed by the Hon'ble Members. But there have been a few administrative difficulties. For instance, Sir, the Hon'ble Member Sri Pattabhiraman drew pointed attention to the appointment of revenue officers as magistrates. I learn that there are only 8 or 9 such cases; and certainly it would not be difficult to transfer officers from Judicial Department to fill these posts. The only point for consideration is that most of the work that is turned out in the Magistrates' courts is being used by the Revenue Department as a training ground for the revenue officers. Some other arrangement has to be made and that is under the most earnest consideration of the Government, to give, if necessary, judicial training, particularly in criminal work, to these revenue officers and transfer these courts which are being now run by the Revenue Magistrates to the judicial cadre.

Next, Sir, the question of Bellary was taken up. As can be seen, we have continued the separation of judiciary from the executive in respect of work of other magistrates. The only point is, that the link, namely the Deputy Commissioner which we are having in other districts is kept up both in the interests of uniformity and convenience. Even at that time, we have given an assurance to the House that the principle of separation of executive from the judiciary which is already available at Bellary will be extended at the earliest moment to other districts also.

Next, Sir, there is only one fresh point. It is not even fresh because I remember to have answered an interpellation on that point. There has been a general demand for the revision of jurisdiction both of territorial and pecuniary. That work has been entrusted to the Hon'ble Justice Sri Mallappa and three other Members. I am glad to say that the Chairman himself was also the Chairman of the Committee which has recommended the separation of powers. Now we are awaiting the report of that Committee. The moment that report is received, I hope it will be very easy for us to consider this matter. Therefore, Sir, there is no delay or tardiness on our part. We are only waiting for the recommendations of that Committee and we will take the earliest opportunity to effect the separation even at the District Magistrate level; and I hope it will not be long.

With this assurance I request the Hon'ble Members to withdraw their cut motions.

Sri R. ANANTARAMAN.—I seek leave to withdraw the cut motion, Sir.

The cut motion was, by leave, withdrawn.

Mr. SPEAKER.—The House will now rise for lunch and meet at 10-40.

The House adjourned for Lunch at Ten minutes past Ten of the Clock and reassembled at Forty Minutes past Ten of the Clock.

[Mr. SPEAKER in the Chair].

Sri S. SRINIVASA IYENGAR (T.-Narasipur).—Sir, I beg to submit that I have six cut motions in my name. At least two I may be permitted to move.

Mr. SPEAKER.—You may move any one of the six in the first instance. Let us see, if there is time at the end.

Sri S. SRINIVASA IYENGAR.—I will move cut motion No. 6, Sir.

Sri A. G. RAMACHANDRA RAO.—We will take it over so far as that subject is concerned.

Sri S. SRINIVASA IYENGAR.—I will then move No. 8, Sir.

Full-time paid Government Pleaders.

*Sri S. SRINIVASA IYENGAR.—Sir, I beg to move:

> "That the demand under the head '27. Administation of Justice' for Rs. 27,95,900 be reduced by Rs. 100 (in order to impress on the Government the necessity of having full-time paid Goverment Pleaders)."

Sir, at present pleaders are nominated by Government and they deal with the

(Sri S. SRINIVASA IYENGAR.)

Government cases on commission basis. By commission basis, I mean that they are given some percentage of fees just as any other client gives to the advocate. Of late, acquisition cases have increased in number. Huge sums of money are involved. Several cases have been coming up to the High Court for decision. The claims by the owners have become exorbitant. In certain cases the owners of land are claiming as much as from Rs. 8,000 per acre to Rs. 30,000 per acre, as I am going to illustrate just now. In a small place like T.-Narasipur the owners of land bordering the limits of municipality have claimed compensation at the rate of Rs. 6,000 to 7,000 per acre which normally would not have cost more than Rs. 300 to Rs. 400. When appeals come before the courts, the Government pleaders plead on behalf of the Government and Government will be bound to pay him fees according to the prescribed fee of five per cent. Payments on account of such cases towards fees for Government Pleaders has become very large and Government is losing large sums of money. I therefore submit that pleaders are appointed as prosecutors on salaries. Public Prosecutors are appointed on salaries of Rs. 250 per month. Similarly, Government pleaders also may be appointed on monthly salary of Rs. 200 or Rs. 250 per month to see that the cases are conducted. By this arrangement, not only will the Government have a full-time legal man at their disposal and also save money. That is my submission.

MR. SPEAKER.—Cut motion moved:

"That the demand be reduced by Rs. 100."

SRI R. ANANTARAMAN (Chamarajpet).—Sir, supporting the cut motion moved by my Hon'ble friend Sri Srinivasa Iyengar, I wish to say that no discrimination should be made between the Public Prosecutors and Government Pleaders. In fact at present there has been a discrimination as Sri Srinivasa Iyengar said. Public Prosecutors are paid Rs. 250 per month, whereas the Government Pleaders are paid only Rs. 100 as retainer's fee and an *ad valorem* fees. I say that in these days this amounts to unfair discrimination and I wish to suggest that such discrimination as exists now should not be allowed to continue.

Secondly, Sir, I also feel that the Government pleaders should be full-time law officers. If they are full-time officers, they can devote much more time for the cases before the land acquisition officers. It has been brought to the notice of the Government and is well-known to lawyers that sometimes there will be so many cases and the Government pleaders send their juniors before the Land Acquisition Officers or Sub-Division Officers or Subordinate Judges. Therefore due to indifference also, due to cases being attended to by juniors, sufficient evidence will not have been let in and the case for the Government will get weakened and Government will have to pay more money as compensation in many cases. I therefore plead, Sir, that it is best that Government pleaders are appointed full-time Law Officers. I do not mind even if he is paid Rs. 500. But it is better he is made a full-time officer and he devotes greater attention to these cases. In some cases even in respect of lands which have been converted, the High Court has ordered compensation to the extent of Rs. 50,000. I feel that it is better that sufficient evidence is let in at an earlier stage as then the Government case will also be placed at an advantage. So, I wholeheartedly support the cut motion, Sir.

*SRI A. G. RAMACHANDRA RAO (Minister for Law and Education).—Sir, there are two aspects to this question. One aspect is whether the appointment of Government pleaders as mere retainers is an effective arrangement. One Hon'ble Member Sri R. Anantaraman seems to suggest that the appointment as retainers seems to have affected efficiency. In so far as that aspect of the question is concerned, we have not received any

information or report of their inefficiency or any laxity in their work.

The other issue that was raised was the desirability of appointing them on permanent basis and giving them salary which will cost the Government large sums of money. On an examination, Sir, I have come to know that it is only in Mysore, Bangalore and Shimoga on account of large number of acquisition cases, they had sufficient work. In other districts, there is little or very small amount of work that is left to the Government pleaders. Therefore, Government felt that these were adventitious things, temporary conditions that these Government pleaders might have had. This requires further consideration. I can only assure the House that the Government will further consider the position and take a decision.

With this assurance I request the Hon'ble Member to withdraw the cut motion.

Sri S. SRINIVASA IYENGAR.—I seek leave to withdraw my cut motion Sir.

The cut motion was, by leave, withdrawn.

District Judge's Court to Chitaldrug.

Sri Mulka GOVINDA REDDY (Chitaldrug).—Sir, I beg to move:

> "That the demand under the head '27. Administration of Justice' for Rs. 27,95,900 be reduced by Rs. 100 (to urge the need for having a District Court at Chitaldrug)."

Sir, the Hon'ble Minister for Law was making a statement sometime back that a Committee has been appointed to go into the question of location of courts in the State of Mysore. Sir, many a time, the Law Association, at Chitaldrug and the leading members of the Bar have waited in deputation before the Head of the Government and also before the Chief Justice of Mysore that there is an urgent need for having a District Court at Chitaldrug. At present Chitaldrug is tacked on to Shimoga and the District Judge of Shimoga goes to Chitaldrug and holds the court for a week or two in a month. There are many cases pending before the District Judge. It is better, Sir, that a District Court is located at Chitaldrug and I request the Government to start one District Court at Chitaldrug, and I would urge the Government to give sympathetic consideration to this matter.

Mr. SPEAKER.—Cut motion moved:

> 'That the demand be reduced by Rs. 100.''

ಶ್ರೀ ಜಿ. ಶಿವಪ್ಪ (ಹೊಳಲ್ಕೆರೆ).—ಈ ಖೋತಾ ನಿರ್ಣಯವನ್ನು ಸಮರ್ಥನೆ ಮಾಡುತ್ತಾ ನಾನು ಹೆಚ್ಚು ಏನೂ ಹೇಳುವುದಿಲ್ಲ. ಬಹಳ ದಿವಸಗಳಿಂದಲೂ ಸಹ ನಾವು ಅಲ್ಲಿಗೆ ಒಂದು ಡಿಸ್ಟ್ರಿಕ್ಟ್ ಕೋರ್ಟ್ ಕೊಡ ಬೇಕೆಂದು ಕೇಳುತ್ತಾ ಇದ್ದೇವೆ. ಈಗ ಬೆಂಗಳೂರು ಜಿಲ್ಲೆಯಲ್ಲಿ ಎರಡು ಮೂರು ಡಿಸ್ಟ್ರಿಕ್ಟ್ ಕೋರ್ಟ್ ಗಳಿರುವುದು ಸರ್ಕಾರದವರಿಗೆ ಗೊತ್ತಿದೆ. ಈಚೆಗೆ ಒಂದು ಸಮಿತಿಯನ್ನು ಸಹ ಇದೇ ವಿಚಾರದಲ್ಲಿ ನಿಯಮಿಸಿದ್ದರು ಎಂದು ನಮ್ಮ ಗಮನಕ್ಕೆ ಬಂದಿದೆ. ಸರ್ಕಾರದವರು ಇದನ್ನು ಸಂಪೂರ್ಣವಾಗಿ ವಿಮರ್ಶೆಮಾಡಿ ಆದಷ್ಟು ಜಾಗ್ರತೆ ನೆರವೇರಿಸಿಕೊಡಬೇಕೆಂದು ಪ್ರಾರ್ಥನೆ ಮಾಡಿಕೊಳ್ಳುತ್ತೇನೆ.

Sri M. V. RAMA RAO (Tumkur).—Sir, this particular cut motion refers to the urgent necessity for having a District Judge's Court established at Chitaldrug. Sir, the present arrangement proceeds on the basis of having additional District Judges appointed to perform the total work that comes before the permanent Judges' courts which have been there all along. In the particular case of the District Judge's Court at Bangalore, unless any of the additional courts have since been abolished, I think, there are three additional District Judges' Courts in addition to the Principal District Judge's Court. This establishes without any argument being adduced in support of it, that the total volume of work requires the establishment of additional District Courts and if Government have thought of locating all these additional District Courts only in Bangalore, I take it that has been done on the ground of administrative convenience, because it would be necessary to appoint separate staff especially process-serving and other staff, if the courts are located in the headquarters of the Districts other than Bangalore which come within the